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3 **Public Disclosure Commission**

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6 **BEFORE THE PUBLIC DISCLOSURE COMMISSION**

7 **OF THE STATE OF WASHINGTON**

8  
9 IN THE MATTER OF  
10 ENFORCEMENT ACTION AGAINST

11 JIM DOWNS, SR.,

12 Respondent.

NO. 02-280

STIPULATION TO FACTS AND  
JURISDICTION AND  
IDENTIFICATION OF DISPUTED  
FACTS

13  
14 THE PARTIES HERETO, the PUBLIC DISCLOSURE COMMISSION STAFF, by  
15 and through their attorney of record, LINDA A. DALTON, Senior Assistant Attorney General  
16 and the Respondent, JIM DOWNS, SR. by and through his attorney of record, ROBERT L.  
17 McADAMS, City Attorney, City of SeaTac, hereby entered into the following Stipulation of  
18 Facts and Identification of Disputed Facts.

19 **I. STIPULATION OF FACTS AND JURISDICTION**

- 20  
21 1. Jurisdiction: Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public  
22 Disclosure Act, Chapter 34.05 RCW, the Administrative Procedures Act, and Title 390  
23 WAC.  
24 2. Complaint: On or about September 29, 2000, the Public Disclosure Commission received  
25 a complaint from Don Benton, then Chair of the Washington State Republican Party,  
26 alleging that Geoff Simpson used public facilities, including on-duty personnel, to produce

STIPULATION TO FACTS AND  
JURISDICTION AND IDENTIFICATION  
OF DISPUTED FACTS

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**ORIGINAL**

1 campaign literature in his 2000 campaign for State Representative in the 47<sup>th</sup> Legislative  
2 District. The complaint alleged that City of Kent Fire Department property was used in  
3 Mr. Simpson's ads. Mr. Simpson was elected to the position of State Representative on  
4 November 7, 2000.

5  
6 3. Investigation: The Public Disclosure Commission staff conducted an investigation into  
7 the allegations made by Mr. Benton. During the course of the investigation, staff  
8 determined that the photographs used in the Simpson campaign literature were actually  
9 taken at the City of SeaTac Fire Department and that on-duty employees of the City of  
10 SeaTac were involved in the use of public facilities to assist the Simpson campaign.

11 4. Photo Shoot: On July 21, 2000, Mr. Simpson participated in a campaign photo shoot at the  
12 City of SeaTac Fire Department. At the time of the photo shoot, Mr. Simpson was an  
13 employee of the City of Kent Fire Department. Mr. Simpson participated in arranging for  
14 the photo shoot by seeking permission from the SeaTac Fire Department through Keven  
15 Rojecki to have a campaign photo shoot at the SeaTac Fire Department, by selecting a  
16 date, and by insuring that a photographer would be present. During the actual photo  
17 shoot, Mr. Simpson wore a uniform that was issued by the City of Kent Fire Department,  
18 and wore clothing and used equipment that was the property of the City of SeaTac Fire  
19 Department and not available to the general public. The clothing and equipment included  
20 bunker gear and protective clothing, fire fighting equipment, and a fire truck. In addition,  
21 seven City of SeaTac on-duty firefighters and seven fire department uniforms were used.  
22 The campaign photo shoot included photographs taken at the City of SeaTac Fire  
23 Department and at other locations not involving the use of public facilities. The  
24 photographs taken on July 21, 2000 using public facilities and equipment of the City of  
25  
26

1 SeaTac and a uniform of the City of Kent were subsequently used in campaign literature  
2 by the Geoff Simpson campaign.

3 5. Actions of Keven Rojecki: Keven Rojecki was a City of SeaTac Fire Department  
4 employee and firefighter and also President of the local firefighter's union (IAFF Local  
5 2919). Mr. Rojecki and Mr. Simpson discussed the possibility of arranging a campaign  
6 photo shoot at the City of SeaTac Fire Department during a union conference in  
7 Wenatchee in April, 2000. Prior to July 21, 2000, Mr. Rojecki coordinated the campaign  
8 photo shoot for Mr. Simpson. Mr. Rojecki was unable to attend the photo shoot on July  
9 21, 2000 and asked Captain John Gallup, a City of SeaTac firefighter, who is also Vice  
10 President of IAFF Local 2919, to assist Mr. Simpson that day, including arranging for use  
11 of on-duty City of SeaTac firefighters and equipment.  
12

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14 6. Actions of John Gallup: John Gallup was a captain with the City of SeaTac Fire  
15 Department. He coordinated the use of City of SeaTac Fire Department equipment and  
16 personnel on the actual day of the photo shoot, July 21, 2000. Mr. Gallup believed that  
17 Chief Downs authorized the photo shoot, on the condition that the City of SeaTac would  
18 not be identified in any campaign photographs. The photographs did not identify the City  
19 of SeaTac or the City of Kent.  
20

21 7. Actions of Chief Downs: Chief Downs spoke with Mr. Rojecki in April, 2000 in general  
22 terms concerning appropriate and inappropriate use of governmental properties but denies  
23 that they spoke specifically about the Geoff Simpson campaign. Chief Downs stated that  
24 he offered to review anything about which Mr. Rojecki had a question to insure that the  
25 City of SeaTac was not involved in supporting a political campaign. Chief Downs was  
26 scheduled to be out of his office on July 21, 2000 and was not present during the photo

1 shoot. Chief Downs was issued a letter of reprimand by the City of SeaTac City Manager  
2 for the events of July 21, 2000, a copy of which is attached and made a part of this record.

## 3 II. IDENTIFICATION OF DISPUTED FACTS

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- 5 1. Commission Staff position: The Commission staff contend that as he has previously  
6 admitted, Mr. Rojecki discussed the idea of the Simpson photo shoot with the Respondent,  
7 Chief Jim Downs, Sr. prior to July 21, 2000 and that Chief Downs authorized the photo  
8 shoot on the condition that the City of SeaTac would not be identified in any campaign  
9 photographs. Mr. Rojecki stated that Chief Downs reminded him that any campaign  
10 photos must not include department logos or identification. Additionally, Commission  
11 Staff contend that according to Mr. Rojecki, Chief Downs asked to see the photos before  
12 they were used, but never actually reviewed the photos. Mr. Rojecki said his conversation  
13 with Chief Downs was not out of the ordinary because the City of SeaTac Fire Department  
14 has a history of using its facilities for campaign photo shoots.

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16

17 Additionally, Commission staff assert that Captain Gallup talked with Chief Downs on July  
18 21, 2000 and mentioned to him that the Simpson photo shoot was taking place that day.  
19 Captain Gallup stated that he understood that it was okay to conduct the photo shoot as  
20 long as the name of the SeaTac Fire Department was not used in the photos.

- 21 2. Chief Downs' position: Chief Downs contends that he did not authorize the use of City of  
22 SeaTac Fire Department equipment and facilities for the Simpson campaign photo shoot.  
23 Chief Downs stated that he talked to Mr. Rojecki about the prohibition against showing fire  
24 department logos in campaign photographs, but contends that he did not talk to Mr. Rojecki  
25 specifically about the Simpson campaign photo shoot. Chief Downs denies that he ever  
26

1 authorized or knew that the photo shoot was going to take place and that such a shoot  
2 would be in violation of city policy and state law.

3  
4 RESPECTFULLY SUBMITTED this 2 day of <sup>April</sup>~~February~~, 2002.

5 CHRISTINE O. GREGOIRE  
6 Attorney General

7 Linda A Dalton  
8 LINDA A. DALTON  
9 Senior Assistant Attorney General  
10 WSBA No. 15467  
11 Attorney for Commission Staff

12  
13 Mary Elizabeth Muiante #20546  
14 for ROBERT L. McADAMS  
15 Attorney for the Respondent  
16 City Attorney – City of SeaTac  
17 WSBA No. 4615  
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